

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

BUNNY BARROW,

Plaintiff,

vs.

NIAGEL ONEIL MCNAIR and
P.A.M. TRANSPORT, INC.

Defendants.

SUMMONS

2021-CP-11

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in the above entitled action, a copy of which is herewith served upon you, to appear and defend the action, and to serve a copy of your Answer upon the subscribers at their offices at One Bull Street, Suite 400, Savannah, Georgia 31401, within thirty days from the date of service; you are also notified that, in case of your failure to do so, judgement by default will be rendered against you for the relief demanded in the Complaint.

September 7, 2021
Savannah, Georgia

s/James J. Kasprzycki
James J. Kasprzycki
South Carolina Bar No: 12413
Attorney for Plaintiff

One Bull Street, Suite 400
Savannah, GA 31401
(912) 447-5984 (Telephone)
(912) 447-0192 (Facsimile)

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE)	SEVENTH JUDICIAL CIRCUIT
)	
BUNNY BARROW,)	
)	
Plaintiff,)	COMPLAINT
)	(Jury Trial Demanded)
vs.)	
)	2021-CP-11-
NIAGEL ONEIL MCNAIR and)	
P.A.M. TRANSPORT, INC.)	
)	
Defendants.)	

The Plaintiff would respectfully show unto the court and allege as follows:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff, Bunny Barrow, is a citizen and resident of Gwinnett County, State of Georgia, and at the time of the occurrence herein mentioned was the driver of a 2007 Freightliner tractor trailer.

2. Upon information and belief, Defendant, Niagel Oneil McNair, is a citizen and resident of Forrest County, State of Mississippi, and at the time of the occurrence herein mentioned was the driver of a 2018 Peterbilt tractor trailer.

3. Upon information and belief, Defendant, P.A.M. Transport, Inc., is a foreign corporation organized and existing under the laws of the State of Arkansas, and at the time of the occurrence herein mentioned was the owner of the 2018 Peterbilt tractor trailer being operated by Defendant, Niagel Oneil McNair.

4. This Honorable Court has jurisdiction of the parties and the subject matter herein set forth.

5. Plaintiff is informed and believes that at all times hereinafter mentioned, Defendant,

Niagel Oneil McNair, was the agent and servant of the Defendant, P.A.M. Transport, Inc., and was acting in the course and scope of his employment or agency and that, therefore, the fault of Defendant, Niagel Oneil McNair, is attributable to the Defendant, P.A.M. Transport, Inc., under the doctrine of respondeat superior.

FACTUAL ALLEGATIONS

6. On or about the thirty-first day of October, 2018, at or about 5:00 A.M., the Plaintiff, Bunny Barrow, had parked his 2007 Freightliner tractor trailer at a Love's Travel Plaza facing north along Priester Road, in Cherokee County, State of South Carolina.

7. On the same date, and at or near the same time, the Defendant, Niagel Oneil McNair, was operating a 2018 Peterbilt tractor trailer, traveling south in the parking lot of the Love's Travel Plaza along Priester Road, in Cherokee County, State of South Carolina.

8. Plaintiff laid down in his 2007 Freightliner tractor trailer to get some rest.

9. Defendant, Niagel Oneil McNair, collided into the 2007 Freightliner tractor trailer Plaintiff was occupying.

10. Plaintiff returned to a standing position to honk the horn when he saw Defendant, Niagel Oneil McNair, about to collide again into the 2007 Freightliner tractor trailer Plaintiff was occupying.

11. Defendant, Niagel Oneil McNair, again collided into the 2007 Freightliner tractor trailer Plaintiff was occupying this time causing Plaintiff to fall in the interior of his vehicle and strike his body against the interior of the vehicle.

AS TO DEFENDANT NIAGEL ONEIL MCNAIR

FOR A FIRST CAUSE OF ACTION

(Negligence, Gross Negligence, Willful, Wanton and Reckless Conduct)

12. Plaintiff incorporates by reference, as if fully set forth, each and every allegation in the proceeding paragraphs and restates and realleges each and every cause of action as if repeated herein verbatim.

13. Defendant, Niagel Oneil McNair, was at the time and place above-mentioned, negligent, careless, grossly negligent, reckless, wanton and willful in any one or more of the following particulars:

- a. In that Defendant, Niagel Oneil McNair, failed to maintain a proper lookout;
- b. In that Defendant, Niagel Oneil McNair, failed to keep his vehicle under proper control;
- c. In that Defendant, Niagel Oneil McNair, failed to properly observe the road and traffic conditions;
- d. In that Defendant, Niagel Oneil McNair, backed his vehicle up when such movement could not be made safely in violation of Sec. 56-5-3810, Code of Laws of South Carolina, as amended;
- e. In that Defendant, Niagel Oneil McNair, failed to make timely application or use of his brakes when by doing so he could have avoided striking Plaintiff's vehicle;
- f. In that Defendant, Niagel Oneil McNair, failed to take any evasive action, by any means, to keep from striking Plaintiff's vehicle;
- g. In that Defendant, Niagel Oneil McNair, created a dangerous condition;
- h. In failing to use the degree of caution and care that a reasonable and prudent person would have used under the circumstances then and there prevailing;
- i. In other ways and particulars that may be shown through discovery and at trial;

any or all of which were the direct and proximate cause of the damages and injuries suffered by the Plaintiff herein, said acts being in violation of the statutory and common laws of the State of South Carolina.

14. As a direct and proximate result of the negligence, recklessness, willfulness, and wantonness of Defendant, Niagel Oneil McNair, as aforesaid, the Plaintiff, was thrown about the interior of the vehicle and suffered great bodily injury and suffered personal injuries, incurred expensive medical, doctor, hospital, nursing, and drug bills, suffered pain and mental anguish, suffered loss of income, suffered impairment of earning capacity, sustained permanent injuries, will be put to future costs, expenses, anxiety, inconvenience, pain and suffering; all to Plaintiff's general damage and detriment.

15. As a result of the acts of Defendant, Niagel Oneil McNair, which are chargeable against the Defendant, P.A.M. Transport, Inc., under the doctrine of respondeat superior, as set forth above, the Plaintiff is informed and believes that he is entitled to an award of actual damages, together with punitive damages and for the costs of this action to be determined by a jury.

AS TO DEFENDANT P.A.M. TRANSPORT, INC.

FOR A FIRST CAUSE OF ACTION

(Negligence, Gross Negligence, Willful, Wanton and Reckless Conduct)

16. Plaintiff incorporates by reference, as if fully set forth, each and every allegation in the proceeding paragraphs and restates and realleges each and every cause of action as if repeated herein verbatim.

17. Defendant, P.A.M. Transport, Inc., was at the time and place above-mentioned, negligent, careless, grossly negligent, reckless, wanton and willful in any one or more of the following particulars:

- a. In that Defendant, P.A.M. Transport, Inc., entrusted its vehicle to a driver they knew, or should have known, would operate the commercial vehicle in a negligent or reckless manner;

- b. In that Defendant, P.A.M. Transport, Inc., failed to make inquiry as to the abilities of the Defendant, Niagel Oneil McNair, to safely and properly operate a commercial vehicle;
- c. In that Defendant, P.A.M. Transport, Inc., negligently selected, hired, trained, supervised, retained, qualified, and/or entrusted Defendant, Niagel Oneil McNair, as a driver of a commercial vehicle;
- d. In that Defendant, P.A.M. Transport, Inc., failed to properly inspect, maintain, service, or repair the tractor trailer Defendant, Niagel Oneil McNair, was driving;
- e. In that Defendant, P.A.M. Transport, Inc., failed to hire experienced and qualified drivers;
- f. In that Defendant, P.A.M. Transport, Inc., failed to provide adequate training to its employees and drivers;
- g. In that Defendant, P.A.M. Transport, Inc., failed to properly supervise its employees and drivers;
- h. In that Defendant, P.A.M. Transport, Inc., failed to maintain its vehicles in a safe manner;
- i. In that Defendant, P.A.M. Transport, Inc., failed to routinely and properly inspect its trucks; and
- j. In other respects to be proven through discovery and trial;

any or all of which were the direct and proximate cause of the damages and injuries suffered by the Plaintiff herein, said acts being in violation of the statutory and common laws of the State of South Carolina.

18. As a direct and proximate result of the negligence, recklessness, willfulness, and wantonness of Defendant, P.A.M. Transport, Inc., as aforesaid, the Plaintiff, was thrown about the interior of the vehicle and suffered great bodily injury and suffered personal injuries, incurred expensive medical, doctor, hospital, nursing, and drug bills, suffered pain and mental anguish, suffered loss of income, suffered impairment of earning capacity, sustained permanent injuries, will

be put to future costs, expenses, anxiety, inconvenience, pain and suffering; all to Plaintiff's general damage and detriment.

19. As a result of the acts of Defendant, P.A.M. Transport, Inc., as set forth above, the Plaintiff is informed and believes that he is entitled to an award of actual damages, together with punitive damages and for the costs of this action to be determined by a jury.

WHEREFORE, the Plaintiff prays for judgment against:

- (a) Defendant, Niagel Oneil McNair, for actual damages and the costs of this action;
- (b) Defendant, Niagel Oneil McNair, for punitive damages and for such other and further relief as this Court might deem just and proper;
- (c) Defendant, P.A.M. Transport, Inc., for actual damages and the costs of this action;
- (d) Defendant, P.A.M. Transport, Inc., for punitive damages and for such other and further relief as this Court might deem just and proper;

Savannah, Georgia
September 7, 2021

Respectfully submitted,

KENNETH S. NUGENT, P.C.

By: s/James J. Kasprzycki

James J. Kasprzycki
South Carolina Bar No: 12413
Attorney for Plaintiff

One Bull Street, Suite 400
Savannah, GA 31401
(912) 447-5984 (Telephone)
(912) 447-0192 (Facsimile)
jkasprzycki@attorneykennnugent.com

Case# 2021-CP-11-00598

AFFIDAVIT OF SERVICE

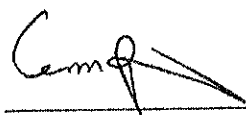
Case: 2021-CP-11	Court: Court Of Common Please Seventh Judicial Circuit	County: Cherokee, SC	Job: 6146280
Plaintiff / Petitioner: Bunny Barrow		Defendant / Respondent: Niagel Oneil Mcnair And P.A.M Transport, Inc.	
Received by: Patton Enterprises, LLC		For: Kenneth S. Nugent Attorney	
To be served upon: P.A.M Transport, Inc. C/O Angela Clark			

I, Cody Patton, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Matt Hoff , 297 W Henri de Tonti Blvd, Springdale, AR 72762
Manner of Service: Authorized, Sep 20, 2021, 2:00 pm CDT
Documents: Summons and Complaint

Additional Comments:

1) Successful Attempt: Sep 20, 2021, 2:00 pm CDT at 297 W Henri de Tonti Blvd, Springdale, AR 72762 received by Matt Hoff . Age: 35;
Ethnicity: Caucasian; Gender: Male; Weight: 180; Height: 6'0"; Hair: Brown;
Served Matt Hoff Risk Management Coordinator who is authorized to accept service on behalf of PAM Transport.



Cody Patton

SEP 22 2021

Date

Patton Enterprises, LLC
PO Box 2384
Bentonville , AR 72712
479-544-7004

BPS 17-11, LS17-14

Subscribed and sworn to before me by the affiant who is personally known to me.



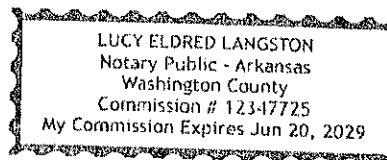
Notary Public

9/22/2021

Date

Commission Expires

6/20/2029



The McKay Firm
3700 Forest Drive
Suite 404
Columbia, SC 29204